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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )

Inquiry into Policies and )  
Programs to Assure Universal )  
Telephone Service in a )  
Competitive Market Environment )

RM-8388

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

COMMENTS  
OF THE  
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association ("NTCA") submits these Comments to the above Petition for a Notice of Inquiry ("Petition") filed by MFS Communications Company, Inc. ("MFS") on November 1, 1993, and released in Report No. 1986 on November 16, 1993.

INTRODUCTION

NTCA is a forty (40) year old national association of approximately 500 small local exchange carriers ("LECs") providing telecommunications services to subscribers and IXC's throughout rural America.

Most NTCA members are community based companies that were formed to provide service in rural areas at a time when the higher costs of providing telecommunications service to rural areas caused the Bell system companies to largely ignore these areas. Providing local exchange service to rural areas is still a high cost venture and NTCA members are still principally engaged in that business. Most recently, a number of NTCA's members have expanded the areas in which they serve by purchasing

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rural exchanges put up for sale by other local exchange carriers.<sup>1</sup> Because NTCA members and other small companies like them have remained in the business, the United States has an efficient and superior nationwide telecommunications system that reaches to the far distant populated villages of Alaska as well as the major metropolitan areas of the Northeastern and Western United States. NTCA members have made Universal Service in the United States a reality not only by providing dialtone. They also have a well documented record of success in providing state-of-the-art services to rural sparsely populated high cost areas.

#### DISCUSSION

I. BROAD UNIVERSAL SERVICE POLICY ISSUES SHOULD BE ADDRESSED IN A COMPREHENSIVE PROCEEDING ON ACCESS AND SEPARATIONS.

MFS requests an Inquiry on the ground that a comprehensive review of Commission policies and programs relating to Universal Service is not embraced in the pending proceedings involving access charge reform and revision of the rules governing the Universal Service Fund. It asks that the Commission convene an en banc hearing due to the overarching significance of the issue and the wide range of interested parties potentially affected by the inquiry.<sup>2</sup> NTCA agrees that the issue is of great

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<sup>1</sup> See, for example, eight petitions for waiver involving 112 rural Montana, Texas, Oklahoma, Arizona and Wyoming exchanges See, in Joint Petition for Waiver of the Definition of "Study Area" contained in Part 36, Appendix-Glossary of the Commission's Rules, and of Sections 61.41(c), 61.41(d) and 69.3(e)(11) of the Commission's Rules by U S West Communications, Inc., Triangle Telephone Cooperative Association, Inc., et al., AAD 93-83, et al.

<sup>2</sup> MFS Petition at 6-8.

significance and that an en banc hearing may therefore be appropriate. Such a hearing, however, should be convened in connection with a comprehensive review of the access charge rules, the appropriate proceeding in which to consider Universal Service issues.

An en banc hearing, such as was held in 1991 regarding PCS, would be most productive after there has been adequate opportunity to develop a record and whatever level of consensus may be possible. This does not mean that various public fora would not be potentially helpful in developing information and consensus, but that a formal en banc would be most useful as the Commission begins preparation of its decisions.

MFS acknowledges that Universal Service will undoubtedly play a central role in any future reform of access charges. It also states that it supports a comprehensive review of access charges. Nonetheless, it urges a separate and preemptive inquiry into Universal Service issues. In MFS's view, the Commission needs to determine (1) what level of continuing financial support for Universal Service is actually required, and (2), how that support should be collected and targeted, before it can resolve issues related to access charge changes.<sup>3</sup>

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<sup>3</sup> MFS Petition at 8.

Much of the current rhetoric regarding Universal Service ignores the fact that the role of the FCC rules is simply to determine how much, from whom, and with which tariffs, the LEC industry recovers its cost of access. A fundamental principle usually ignored in the debate over "subsidies" is that the LEC industry only receives an amount determined to equal its cost of providing interstate access. Because most of the revenue requirements arising from the provision of interstate access are common with the provision of intrastate service, there is no non-arbitrary way to allocate the costs. There is no subsidy in the sense that Webster defines it: "a grant by a government to a private person or company to assist an enterprise deemed advantageous to the public."

An enterprise not subject to rate regulation, such as a grocery or MFS is free to price its products to recover its costs consistent with its view of the market. A grocer is free to decide that customers will not buy the current supply of lettuce at a price that makes the same contribution to overhead as sirloin steak, or that a low price for steak will bring customers into the store who will also buy lettuce at a higher profit margin. The access and separations rules, presently applied to LECs but not MFS, make these decisions for the LEC industry on the basis of governmental conclusions as to the market. With the vast changes in the market, industry structure and technology now occurring, it is important that the government recognize the need to keep these rules consistent with the market. It is imperative

that in doing so it recognize that the current rules have made an important contribution to the extraordinary success of the United States telephone industry in providing Universal Service, and that the changes must be carefully designed to avoid impairing that success.

NTCA disagrees with MFS position that a separate Inquiry is needed to address Universal Service issues before and apart from access charge and separations reform. NTCA and others have called for comprehensive review of the access charge scheme in each of the pending proceedings to which MFS makes reference.<sup>4</sup> In these proceedings, NTCA made the point that Universal Service is a critical matter that needs to be considered in the context of any change to the access charge scheme. Likewise, NTCA pointed out then and reiterates here its belief that the support programs and mechanisms that are in place to assure Universal Service goals are met are also critical and should not be

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<sup>4</sup> MFS refers to the Report and Order and Notice of Proposed Rulemaking in Expanded Interconnection with Local Telephone company Facilities, CC Docket No. 91-141 (CC Docket No. 91-141), the petition of the National Association of Regulatory Utility Commissioners ("NARUC") for a Notice of Inquiry Concerning Access Issues (NARUC Petition), the Petition for Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region (Ameritech Petition), the United States Telephone Association's Petition for Rulemaking regarding "Reform of the Interstate Access Charge Rules (USTA Petition), and the Notice of Proposed Rulemaking in Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, FCC 93-435 (released Sept. 14, 1993). MFS Petition at 7. See, NTCA Comments of Sept. 2, 1992, in CC Docket No. 91-141, of June 11, 1993, in Ameritech Petition, of Nov. 1, 1993, in USTA Petition of Sept. 2, 1993, in NARUC Petition and of Oct. 19, 1993, in CC Docket No. 80-286.

adjusted outside of a comprehensive review of the entire access charge and separations structure.<sup>5</sup>

II. MFS' VISION OF UNIVERSAL SERVICE IS FAULTY AND INCONSISTENT WITH THE UNIVERSAL SERVICE POLICY CONTAINED IN THE COMMUNICATIONS ACT.

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MFS incorrectly assumes that the Communication Act's Universal Service mandate will be achieved by restricting the use of subsidy programs to "limited POTS [plain old telephone service] access, including Touch-Tone or [dual tone multi-frequency] DTMF signalling and targeting subsidy programs to individuals on the basis of a consumer "needs" test. MFS explains that its version of Universal Service is a restricted vision that would "allow Americans to be connected to the ubiquitous network" but not subsidize particular services offered over that network.<sup>6</sup> MFS' version of Universal Service is inconsistent with the evolving technology and the dynamic national vision of Section 1 of the Communications Act. Telecommunications is rapidly evolving into an array of services involving radio and wire transmission of data, voice and video in multiple formats. MFS' vision is also inconsistent with pending legislation that includes "advanced services" in the definition of Universal Service.<sup>7</sup>

MFS suggests that existing high-cost and Universal Service Fund programs should be converted into targeted subsidies based

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<sup>5</sup> See, NTCA Comments referenced in n.4 above.

<sup>6</sup> MFS Petition, at 10.

<sup>7</sup> See, H.R. 3636, 103rd Cong., 1st Sess. Sec. 102 (c)(6).

on "income, disability, and other customer characteristics that would assure the continued availability of basic service to all individuals."<sup>8</sup> MFS also complains that existing mechanisms are inappropriate because no other commodity is subsidized on the basis of geography. Of course, MFS gives no reason why geography should not be a distinguishing factor when it is the principal cause for cost differences in a system that averages prices.<sup>9</sup> It also fails to point out that telecommunications is a utility service, not a commodity, for which there is a statutory Universal Service mandate.

The premise of MFS's "needs" test and end user subsidy idea wholly misses the meaning of Universal Service and the goal of the Communications Act. The essence of that national policy is a commitment to the development of a "nationwide" telecommunications system similar to the national highway or defense system. The conversion to a consumer "needs" subsidy program to compensate individuals who cannot pay the actual cost of providing service to their home or business will unglue the access charge system which has made it possible to build a highly adequate national telecommunications system. It would be ironic and tragic if the Commission were to adopt MFS's "needs" subsidy as an alternative to successful mechanisms just as the Nation through the Administration is planning initiatives to further

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<sup>8</sup> MFS Petition at 11.

<sup>9</sup> In any event, the Universal Service Mechanism operate on the basis of cost and carrier size, but not georgraphy, per se.

the development of a national information highway capable of maximizing the benefits of the existing electronic highways.<sup>10</sup> The Administration's Agenda for Action proposes to extend the "Universal Service" concept to ensure that information resources are available to all at affordable rates. It also recognizes the geographical factor that MFS would have the Commission abandon.<sup>11</sup>

MFS has confused the issue of need with the concept of Universal Service. Consumer need and the affordability of telephone service are addressed in the Lifeline and Link-up programs the Commission established. These programs address the "ability to pay" issue and enable persons with reduced income to obtain assistance so that they can purchase telephone service. The purposes of these programs are to provide money or credits to individual "needy" consumers so as to make telephone service affordable for them. These purposes are laudable, should not be abandoned and may well be improved. However, neither the purposes nor the programs that address these purposes are a substitute for the existing support programs contained in the access charge rules. The purposes of the high cost support and Universal Service Fund programs are to assure that service will

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<sup>10</sup> See, The National Information Infrastructure: Agenda for Action, (September 15, 1993).

<sup>11</sup> Id. The Agenda states: "The Administration is committed to developing a broad, modern concept of Universal Service-one that would emphasize giving all americans who desire it easy, affordable access to advanced communications and information services, regardless of income, disability, or location. [Emphasis added]" At 8.



be available to all areas of the country so that all the people can benefit from "a rapid, efficient, nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges."<sup>12</sup> If LECs do not have cost recovery rules that are reasonable they cannot construct the infrastructure needed to provide service to anyone, rich or poor.

Neither "needy" persons nor anyone else in rural America will have available service against which to apply credits or subsidies if MFS's proposal to change the support programs is adopted. Under the present scheme these programs include payments to companies and administration of the funds by the National Exchange Carriers Association ("NECA"). MFS argues that administration of Universal Service programs should be arranged by contracting with a third party administrator other than NECA. An arrangement with yet another administrator would be duplicative and unnecessary. NECA already collects, analyzes and audits the data required to compute tariffs and administer settlements. There would undoubtedly be additional costs and duplication of data gathering if a third party were used to administer separate Universal Service programs. NTCA is opposed to this idea since the public would not benefit from its adoption.

The Commission should move promptly to commence a comprehensive review of the separations and access mechanisms which sustain universal service. The industry recognizes the

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<sup>12</sup> 47 U.S.C. 151.

need to consider substantial revisions in these mechanisms, but urges the Commission to move deliberately on the basis of a factual record and not succumb to the rhetoric of those who are merely trying to shift cost to others for their, rather than the public benefit.

### III. CONCLUSION

For the above stated reasons, the Commission should deny MFS's request and consider Universal Service issues in conjunction with a comprehensive review of the access charge rules.

Respectfully submitted,

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December 16, 1993

CERTIFICATE OF SERVICE

I, Rita H. Bolden, certify that a copy of the foregoing Comments of the National Telephone Cooperative Association in RM-8388 was served on this 16th day of December 1993, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:

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